

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

HAROLD KELLY MURPHY,

Plaintiff,

v.

SOUTHERN ENERGY HOMES, INC.,

et al.,

Defendants.

Case No.: 2:06-cv-618-MEF

MOTION TO AMEND INTERNAL DEADLINES IN SCHEDULING ORDER

COMES NOW the Defendant, Southern Energy Homes, Inc. ("Southern"), and respectfully submits the following motion to amend this Court's Scheduling Order of April 4, 2007. As grounds therefor, Southern submits the following:

1. This is a manufactured housing defect case set for trial on this Court's jury term on February 4, 2008. Southern is NOT seeking to continue the current trial date.
2. The discovery cutoff under the current Scheduling Order is December 21. Southern is NOT seeking to continue the discovery cutoff.
3. However, according to the current Scheduling Order, Southern must file any dispositive motion on August 17, 2007.
4. Plaintiff has pending before this Court a Motion for Leave to Amend his Complaint, attempting to emphasize new and different defect allegations with respect to the home.
5. Since the Court has not yet ruled on Plaintiff's Motion for Leave to Amend, Southern has not taken discovery on Plaintiff's new theories, and it will be impossible for Southern to file a Motion for Summary Judgment by August 17th.

6. Accordingly, Southern requests that this Court continue the dispositive motion deadline until discovery is complete, December 21, 2007.

7. Additionally, Plaintiff's expert reports are currently due on July 18, 2007. The Defendant's expert reports are due August 17, 2007. Accordingly, Southern wishes to amend the Scheduling Order to extend the time for exchanging expert reports for Plaintiff until October 18th and for Southern until November 17th. Obviously, the parties cannot file experts' reports, etc. until they are certain what claims are going to be allowed in the case.

8. As mentioned above, these extensions will not delay the trial of this case or the discovery cutoff.

9. The Plaintiff does not oppose this motion.

WHEREFORE, PREMISES CONSIDERED, Southern respectfully requests that the Court change the dispositive motion filing deadline from August 17, 2007, until December 21, 2007. Further, Southern respectfully requests that the Court extend Plaintiff's expert report deadline from July 18th until October 18th and extend Southern's expert report deadline from August 17th until November 17th.

Respectfully submitted,

/s W. Scott Simpson

W. Scott Simpson, Attorney for Defendant
Southern Energy Homes, Inc.

OF COUNSEL:

RITCHEY & SIMPSON, PLLC
3288 Morgan Drive, Suite 100
Birmingham, Alabama 35216
Telephone: (205) 876-1600
Facsimile: (205) 876-1616
Email: wssimpson@ritcheysimpson.com

Thomas W. Thagard, III
Edward S. Sledge, IV
MAYNARD, COOPER & GALES, P.C.
1901 6th Avenue North, Suite 2400
AmSouth/Harbert Plaza
Birmingham, Alabama 35203-2618
Telephone: (205) 254-1000
Facsimile: (205) 254-1999

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of July, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- **Charles Lance Gould**
lance.gould@beasleyallen.com holly.stroh@beasleyallen.com
- **Carter Gibson Vance**
gibson.vance@beasleyallen.com heidi.bowers@beasleyallen.com

/s W. Scott Simpson
Of Counsel